



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

February 23, 2009

Memorandum for: Chief of Personnel

Subject: **ADMINISTRATIVE TRANSFER, AND TRANSFER  
RESTRICTION OF A UNIFORMED MEMBER OF THE  
SERVICE**

1. Detective Derick Waller, Tax # 916990, was recently the subject of Disciplinary Case No. 83601/08.
2. Separate and apart from the disciplinary process, the Police Commissioner also mandates that Det. Waller be transferred to a Patrol Services Bureau Precinct enforcement command located *outside* the confines of Patrol Borough Manhattan North. Further, **Det. Waller will not be the subject of any future transfer without the explicit approval of the Police Commissioner.**
3. Forwarded for necessary attention.

BY DIRECTION OF THE POLICE COMMISSIONER

Michael E. Shea  
Deputy Chief  
Commanding Officer  
Police Commissioner's Office



## POLICE DEPARTMENT

December 7, 2008

MEMORANDUM FOR: Police Commissioner

Re: Detective Derick Waller  
Tax Registry No. 916990  
Housing VIPER # 2  
Disciplinary Case No. 83601/08

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The above-named member of the Department appeared before me on July 22, 2008, charged with the following:

1. Said Detective Specialist Derick Waller, while assigned to Police Service Area #6, on September 28, 2007, while on duty, at approximately 1100 hours, in the vicinity of 326 East 110<sup>th</sup> Street, New York County, did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department, in that said Detective Specialist acted in an unprofessional manner when he made several pelvic thrusting motions while holding a female, identity known to the Department, by the back of the arms, nearly making contact with her buttocks, as he stated, "This is how you put out a fire." (*As Amended*).

P.G. 203-10, Pg. 1, Para. 5 PUBLIC CONTACT-PROHIBITED CONTACT  
GENERAL REGULATIONS

The Department was represented by Michelle Y. Alleyne, Department Advocate's Office, and the Respondent was represented by Peter Brill, Esq.

The Respondent entered a plea of Not Guilty to the single specification charged. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

### DECISION

The Respondent is found Guilty.

COURTESY • PROFESSIONALISM • RESPECT

SUMMARY OF EVIDENCE PRESENTEDThe Department's Case

The Department called Christine Oliveras and Sergeant Michael Bock as witnesses. Entered into evidence were the transcripts of interviews of two civilians, Angela Boitel and Joseph Vilar (Department Exhibit ("DX") 1 and DX 2).

Christine Oliveras

Oliveras is a 24-year-old resident of Bronx County and the complainant. She is employed by the Center for Animal Care and Control ("CACC") on 110<sup>th</sup> Street in Manhattan. She testified that on the day in question she was working from 8:00 am to 4:30 pm, and her duties included attending to the well-being of the animals located in the various wards on the second floor of the facility.

Oliveras testified that she encountered the Respondent at approximately 11:00 am. She stated that she was cleaning the animal wards when she was interrupted by the Respondent and knew that he was a police officer because he was dressed in uniform. Specifically, the Respondent started a conversation with her where he expressed his interest in adopting a female dog and asked where he could find one in the building. After telling him where he could locate dogs for adoption, Oliveras stated that the focus of the conversation then shifted to solicitations as to whether she would be interested in a date with the Respondent.

Oliveras testified that she informed the Respondent that she did not believe they would get along. She informed the Respondent that she had successfully completed the entrance examination for the New York City Fire Department and that she did not think a

relationship with him could be fostered. Oliveras opined that members of the Police and Fire Departments do not get along.

...I told him I didn't think we would get along...I just applied for the [Fire Department] and found out that I had just passed...from what I hear Police Officers and firefighters don't get along...

At this point, she said the Respondent left the room where they had the conversation and walked into the hallway where he started a second conversation with a person named Joseph Vilar. Oliveras subsequently stepped into the hallway joining the Respondent and Vilar. She testified that it was at this point that the Respondent noticed a tattoo that she had on her right wrist. She said the Respondent then grabbed her right wrist using his right arm, bringing her to a position where she was being held by her biceps while the Respondent was directly behind her. At this point, Oliveras testified that she attempted to free herself from the Respondent's grip and he remarked, "...small frames like this, I like to break, this is how you put out a fire." Oliveras said that she was scared and unable to pull from the Respondent's grip. She testified that she felt "brushing on my back area, and an up and down motion." Oliveras explained that because she was facing forward, she could not tell what was causing the brushing sensations that she felt.

Oliveras said that Vilar was present during the encounter and left the area right after the Respondent made his remark about her frame. The Respondent then let go of Oliveras and she proceeded into a ward and was followed by the Respondent. A third encounter ensued. Oliveras testified that this was another attempt by the Respondent to solicit her for a date. She said, "He asked me if I wanted to go for dinner and a drink again." When she said that she was not interested, the Respondent asked for her telephone number. Oliveras provided the Respondent with two "fake" telephone

numbers in order to "get him out of my face." The Respondent was then summoned by his partner.

Shortly thereafter, Oliveras said that she had a conversation with Vilar regarding what had just happened. Vilar asked her if she knew the Respondent. When she told him that she had never met the Respondent before in her life, he informed her that he thought that the two knew each other based upon his conduct. She said, "I told him [Vilar] I could have sworn he [the Respondent] was humping me... [Vilar] said yes, while he was saying those derogatory comments." Oliveras testified that this conversation with Vilar confirmed her suspicion that she was being "humped" from behind and she realized that this was the brushing sensation that she felt behind her. Oliveras and Vilar then reported the Respondent's conduct to their supervisor who contacted the police.

During cross-examination, Oliveras acknowledged that she was interviewed by a member of the Internal Affairs Bureau ("IAB"). She agreed that this interview was recorded electronically by a tape recorder. She stated that her memory of the incident was more vivid on the date that this matter came on for hearing as opposed to the date of the occurrence.

Oliveras was questioned with respect to the responses that she furnished during the tape-recorded interview conducted on the date of the incident. She admitted that during her recorded interview, she answered that all she personally observed was the Respondent grabbing her arm. She agreed that at this recorded interview she informed the investigator that she did not feel "his private area" rubbing against her.

Oliveras acknowledged that the Respondent was wearing a short sleeve shirt on the date of the incident and that she noticed that he had tattoos on his arm. She further acknowledged that at some point, there was a discussion with respect to the "Aquarius"

tattoo that she had on her wrist. She said that the conversation between her and the Respondent started with him asking about adopting a female dog and that it was subsequent to this inquiry that the Respondent began asking for a social engagement. It was at this point, that Oliveras explained that she made a joke regarding poor relations between members of the Police and Fire Departments. She acknowledged that the conversation about the adoption, the request for the social engagement, and the joke occurred in a room. She also further agreed that the Respondent proceeded to the hallway where he began a conversation with Vilar.

Oliveras admitted that she too went into the hallway and joined the conversation between the Respondent and Vilar. She also admitted that this was the point where the "tattoo conversation" happened and where the incident occurred where she was touched by someone she did not know which made her feel embarrassed and violated. She explained, "I'm facing him [the Respondent], he is facing on an angle like this, looking at the tattoo. He already had his hand on my wrist. He then goes like this, comes behind me like this and pulls my arms back like this." Oliveras said that "...everything happened so fast. I didn't have time to register it."

Oliveras indicated that Vilar wears glasses but did not think he was wearing them on the day of the incident. She explained that Vilar was "real close...inches away...standing right next to us" when the incident happened. Neither she nor Vilar told the Respondent to stop what he was doing.

During redirect examination, Oliveras testified that she was unable to free herself from the Respondent's grip and that she attempted to pull away without success. She explained that she perceived the definition of "contact" to mean something physical

whereas she believed “brushing” did not necessarily rise to the level of “contact.” She testified, again, that she felt a brushing sensation behind her in her buttocks area.

Oliveras admitted during further cross-examination that she did not sustain any bruises or marks on her shoulder.

Sergeant Michael Bock

Bock is presently assigned to the Manhattan Special Victims Squad. He has been employed by the Department for 16 years. He was assigned to IAB Group 11 on September 28, 2007. He testified that while at Group 11 his primary function was that of an investigator of allegations of corruption and serious misconduct against members of the service. Bock testified that he became involved with this matter when he received a notification from the IAB Command Center of the allegation made by Oliveras. Specifically, he said that the allegation concerned inappropriate behavior committed by the Respondent.

Bock testified that he was assigned the case concerning the Respondent and started his investigation by responding to CACC. Upon arrival at CACC, he learned that there were three individuals who had contact with the Respondent: Boitel, Oliveras and Vilar. There, he conducted interviews of those individuals.

Bock said that the first interview he conducted was of Boitel. Bock testified that Boitel was assigned to the first floor, the Intake area and was performing cleaning duties when the Respondent appeared. Bock’s interview yielded that the Respondent engaged Boitel in conversation about adopting dogs. According to Boitel, at times, the tone of the conversation was “flirtatious.” Specifically, Bock testified that Boitel claimed that the Respondent sought a date from her. Boitel told Bock that at one point, the Respondent

obstructed the doorway of the room that she was in while he asked for a date.

Specifically, "...Detective Waller put his hand across the doorway in the room she was in." Bock testified that the Respondent told Boitel that "she looked very nice, and he said she would look better in plainclothes than [her] uniform."

Bock testified that the second interview that he conducted was of Vilar. He explained that Vilar was assigned to the second floor of the facility, as was Oliveras. He testified that his interview of Vilar revealed that he first encountered the Respondent in the hallway of the second floor. The Respondent approached Vilar and said that he was interested in looking at dogs. Vilar directed him to the area where the adoptable dogs were located, which was where Oliveras was working. Bock testified that he examined the second floor of the facility and he explained that the hallway was not large. During the interview, he learned that Vilar observed the Respondent spin Oliveras around "so her back was to his buttocks." Vilar stated that he watched the Respondent "[place] both arms on Oliveras' arms, between the elbow and the shoulder, on the meaty section of the back of the arms and proceed to mimic a thrusting pelvic motion." Bock stated that Vilar informed him that Oliveras had a facial expression reflecting that "something wasn't right." Bock testified that Vilar said that he and Oliveras reported the Respondent's behavior to their supervisor.

On cross-examination, Bock agreed that during his interviews, Vilar said that he thought that the Respondent and Oliveras knew each other. During redirect examination, Bock said that Vilar thought this was so because of the "pelvic-thrust motions that Detective Waller performed on Ms. Oliveras."



Summary of Interview of Angela Boitel

Boitel was interviewed on September 28, 2007, regarding this incident by Sergeant Bock.<sup>1</sup> Boitel gave her address and she said her date of birth was December 9, 1986. Boitel was employed by CACC and was a co-worker of Oliveras.

In her interview, Boitel stated that on the day in question, she was working from 8:00 am to 4:00 pm and performing various duties. She stated that at one point, she encountered the Respondent. She said that she was in room "2B" when the Respondent said he wanted to speak with her, ostensibly for the purpose of asking if she was interested in going out for drinks. While this was happening, Boitel said she was emptying refuse from animal cages in the room and depositing the refuse in the garbage located directly outside of that room. At one point, Boitel stated, she attempted to go to the garbage and was unable to do so because the Respondent was blocking the doorway and would not move from this position:

...and um he stands in the door and he just like with his hand up on the wall and he's like, and I'm like um "excuse me" and he's like "wait a minute let me talk to you." And he's like um "what's up, can I take you out for drinks or whatever" and I'm like, "yeah" I just started laughing you know...I just laughed it off and but he still hasn't moved out of the way...He was stopping me from getting back to work (DX 1).

The Respondent persisted in an attempt to solicit a social engagement with Boitel. Eventually the Respondent moved out of the way and he went upstairs to the second floor of the facility using the elevator. During the interview of Boitel, she was shown a series of photo arrays. The Respondent was positively identified by Boitel.

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<sup>1</sup> A compact disc containing an audio recording of the interview was entered into evidence as DX 1 and the associated transcript was entered into evidence as DX 1A. Boitel did not appear at the trial due to a child care commitment.

Summary of Interview of Joseph Vilar

Vilar was also interviewed on September 28, 2007 by Sergeant Bock.<sup>2</sup> Vilar gave his address and said his date of birth was March 19, 1960. Vilar was employed at CACC and was working on the day in question. His interview revealed that he made an observation regarding the Respondent and Oliveras.

Vilar said that he was working on the second floor of the facility performing cleaning duties when the Respondent appeared. While the Respondent was talking to him about adopting an animal, Oliveras appeared. It was at this point that the Respondent encountered Oliveras and an incident transpired:

... [Respondent said] "oh that's what I want"...then he grabs her [Oliveras] and then he pulled her arm behind her and started making humping movements saying "yeah, I could get with this..." He went in there behind her. She gave me a look...like "I don't know this guy"...when they came out I went to her and I said "do you know them" and she said "no"...(DX 2).

Vilar stated that as the Respondent was holding onto Oliveras' arms, he stood behind her and made "humping motions" towards Oliveras' body unbeknownst to her. This occurred for about a minute. After Oliveras remarked to Vilar that she did not know the Respondent, she said that she felt violated and later added that her arm was hurt (DX 2).

Ultimately, Vilar reported what had transpired to his supervisor who then notified police, which led to his interview conducted by Bock.

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<sup>2</sup> A compact disc containing an audio recording of the interview was entered into evidence as DX 2 and the associated transcript was entered into evidence as DX 2A. Joseph Vilar did not appear at trial.

The Respondent's Case

The Respondent testified in his own behalf.

Detective Derick Waller

The Respondent was appointed to the Department on June 30, 1995. He is currently assigned to Housing VIPER Unit No. 2. On the date of the incident, he was assigned to Police Service Area ("PSA") 6. His duty status is Modified Assignment and he was promoted to the rank of Detective-Specialist in December of 2000.

The Respondent testified that on September 28, 2007 he was assigned to patrol duties in the confines of PSA 6. He said that on that day, he responded to an assignment involving a pit-bull dog. There came a point where the Respondent and his partner "caged" this dog and transported it via their radio motor patrol car ("RMP") to CACC.

The Respondent explained that he had been to the CACC previously, and described the procedure with respect to lodging animals there. He testified that an officer brings the dog into the facility and completes relevant paperwork. On this day, the Respondent told his partner to complete the paperwork. The Respondent testified that as his partner completed the paperwork, he went to a room on the first floor to ask about adopting dogs. He testified that he spoke to a "female in the room" and had a conversation with this person. According to the witness, this conversation consisted of, "...where is (sic) the dogs for adoption, how are you doing, your name, do you like working, how long have you been working here...basic conversation." The Respondent stated that he did not ask this individual out on a date. He then testified that his partner joined him and they went upstairs to the second floor.

The Respondent testified that on the second floor he encountered another female, Oliveras, in a room. He said he had a conversation with this person. The Respondent explained that the conversation consisted of, "Basically hello. She noticed my shield was different than his [partner's]...I said I'm a detective." The Respondent indicated Oliveras noticed that he had several tattoos on his arm and she asked about these tattoos. The Respondent testified that Oliveras touched his hand so as to see his tattoos. He explained that he rolled his sleeves up while Oliveras held up his hand. The two then had a conversation, where he asked if Oliveras socializes with her co-workers. She said that they were going to TGI Friday's that evening. The Respondent asked for her telephone number, and Oliveras provided two. He then stated that he left the room and went into the hallway.

The Respondent testified that at this point he began a conversation with Vilar. He said Oliveras then joined them, "...she came out. We were in the little hallway area." He said, "I was shaking her hand to say good-bye. I spun her around, wound up behind her, do a little dance. That was pretty much it." The Respondent then stood up and demonstrated the "little dance" for the Court. The Court noted, "The Respondent indicated that he took his right hand and held Ms. Oliveras and turned around her and ended up behind her in a dance type motion." He claimed that he had no recollection of placing his hands on Oliveras' biceps or upper arms. The Respondent denied that his dance number comprised of any pelvic motions, saying, "No. I don't go for that."

The Respondent testified that Oliveras never expressed any discontent with the encounter or his dance performance. He stated that he was never told to get off of her. Furthermore, he opined that her demeanor was "fine." The Respondent said that Oliveras mentioned that she took the Fire Department examination. He also acknowledged

making a remark where he stated, "this is how you put out fires," while he was spinning her around during the course of the dance performance. The Respondent testified that he never got the impression that his actions were unwanted or inappropriate and that the interaction with Oliveras lasted "a couple of seconds, less than a minute."

On cross-examination, the Respondent agreed that he encountered Boitel in the Intake area. He was questioned about his testimony on direct examination about his encounter with Boitel. He disagreed that he asked to accompany Boitel to TGI Friday that evening. The Respondent denied having a recollection of "actually holding Oliveras, not spinning her around, but holding her stationary." He further denied a recollection of performing "pelvic thrusts" where Oliveras' back was to him, nor did he recall holding Oliveras by the biceps and making the remark about putting out a fire.

The Respondent was confronted with the responses from his Official Department Interview, conducted on October 19, 2007. Upon questioning by the Department Advocate, the Respondent claimed that his memory of the incident was better on the date of the interview. He subsequently agreed that he asked Boitel if she was interested in a date. The Respondent also admitted that he recalled grabbing Oliveras about the elbow and shoulder and performing the dance routine and making the remark about putting out a fire, and that she remarked that she was uncomfortable with his behavior. The Respondent acknowledged that he found both Boitel and Oliveras attractive and that he had never encountered either of them until September 28, 2007. The Respondent admitted that Oliveras never asked for his telephone number, nor did she ask him about a social engagement.

The Respondent was asked if he did "...touch Ms. Oliveras on the back of her arms and did several pelvic thrusts, not meaning her buttock area with your pelvic region..." and he admitted that he did.

On re-direct examination, the Respondent testified that he had a conversation about going to TGI Friday with both Boitel and Oliveras. He said that Oliveras gave him two telephone numbers. In receiving two phone numbers from Oliveras, the Respondent said, "Two numbers. I'm in my forties, and I never met a woman who said call me, here is my number. It's usually the male who asks for a date, the man makes the first move." The Respondent said he was never rejected by Oliveras.

During further cross-examination, the Respondent disputed the possibility that Oliveras might have been offended by his conduct. However, he then conceded that she might have been offended when he was confronted with the responses from his Official Department Interview where he said that Oliveras had expressed to him that she was uncomfortable.

During further re-direct examination, the Respondent testified that he knows the level at which a person would feel uncomfortable because he frequents clubs. He stated, "...I went out to clubs, and I had one night-stand with a woman, I do it all the time, everybody has a level that you cross. Everyone knows that level to make them feel uncomfortable." Based upon this, the Respondent offered that he does not believe that he "crossed that threshold to make her [Oliveras] feel uncomfortable." He offered that if it were not for Vilar, he does not believe this case ever would have come to fruition.

During continued cross-examination, the Respondent, agreed that he had a conversation with Boitel about TGI Friday, and that a continuation of this conversation occurred with Oliveras, but that there were no set plans to go there.

FINDINGS AND ANALYSIS

The Respondent is charged herein with engaging in conduct prejudicial to the good order, efficiency and discipline of the Department in that he acted in an unprofessional manner when he made several pelvic-thrusting motions while holding a female by the back of the arms nearly making contact with her buttocks as he stated, "This is how you put out a fire." The Respondent is found Guilty as charged. Evidence adduced at trial established that the Respondent, while on duty, went to CACC in New York City to drop off an animal. While there, he engaged Oliveras in conversation. While noticing the tattoo on her right wrist, Oliveras testified that the Respondent grabbed her right wrist, spun her in a way that she was directly in front of the Respondent and now being held by her biceps. As she attempted to free herself from the Respondent he stated, "...small frames like this, I like to break, this is how you put out a fire." Oliveras testified that she felt a "brushing" on her back area, near her buttocks and an up and down motion, but because she was facing forward, she could not determine what was the cause.

Oliveras stated that following the incident with the Respondent, she had a conversation with her co-worker Vilar. He informed her that the Respondent was, in fact, performing a "humping" motion while standing behind her and making the remarks. They reported the Respondent's conduct to a supervisor, who in turn, called the police.

Vilar was interviewed by IAB in this matter (DX 2). He stated while he was performing cleaning duties at work, the Respondent appeared. They engaged in conversation in the hallway of the second floor at CACC and then Oliveras appeared. Vilar stated that he observed the Respondent grab Oliveras and then pull her arm behind her as he made humping movements and said, "Yeah I could get with this..." Vilar said

he later asked Oliveras if she knew the Respondent and she stated that she did not. When he advised her of what the Respondent had done behind her, he decided to report the incident to his supervisor who later reported it to the police.

There was another female who the Respondent encountered at the location prior to Oliveras. Boitel gave a statement to IAB that she was at work emptying refuse from the animal cages. She encountered the Respondent who asked her out on a date. She stated that the Respondent blocked the doorway which prevented her from completing her work. Eventually the Respondent moved away from the doorway and Boitel was able to resume her duties. She saw the Respondent leave and go to the second floor of the building.

The Respondent testified at this proceeding and acknowledged that he did engage in conversation with Boitel and Oliveras. He stated that he had a basic conversation with Boitel about the location of the dogs for adoption, how she was feeling, what was her name and if she liked her job. He denied asking Boitel out on a date. He said while talking to Oliveras, he was shaking her hand to say goodbye and then he spun her around and wound up behind her, but he was doing a "little dance," and that was it. He denied that he placed his hands on Oliveras's biceps or upper arms and he also denied that his dance number consisted of any pelvic motions.

It was not until cross-examination, when the Respondent was confronted with statements he made during his Official Department Interview held on October 19, 2007 that he was honest in this forum about what transpired on September 28, 2007. The Respondent admitted that he did ask Boitel if he was interested in a date. He also admitted that he did find both Boitel and Oliveras to be attractive women. The Respondent then acknowledged that he did grab Oliveras about the elbows and perform a



dance routine. He admitted that he made the remark about putting out a fire. He also admitted that while holding Oliveras by the back of the arms he did several pelvic thrust motions. The Respondent initially tried to dispute the fact that his actions offended Oliveras. He later admitted that he recalled saying during his interview that Oliveras told him she was uncomfortable with his actions.

Based on the above, I find the Respondent Guilty of Specification No. 1.

### PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). The Respondent was appointed to the Police Department on June 30, 1995. Information from his personnel record that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

The Respondent has been found Guilty of engaging in conduct prejudicial to the good order, efficiency and discipline of the Department in that he acted in an unprofessional manner when he made several thrusting motions while holding Oliveras by the back of the arms and stating, "This is how you put out a fire." The Respondent engaged in this activity while on duty, in uniform while performing police functions. The Respondent not only asked two females at the animal center out for dates, but he also interrupted both of them from performing their cleaning functions at the animal center. The Respondent went so far with Oliveras as to spin her around, hold her by the elbows, make pelvic-thrusting motions and make a derogatory statement about "putting out a fire."

While this Court understands that as the Respondent performs his police duties, he may encounter attractive woman and want to engage them in conversation, he must be mindful of when his actions cross the line and become unwanted by the recipient. Surely if he asked someone out on a date and she was not interested, the conversation would likely end as it did with Boitel. But the Respondent must heed from unwanted behavior. Boitel informed the IAB investigator that the Respondent actually blocked the doorway while he asked her out on a date preventing her from performing her duties. The Respondent must also refrain from unwelcome touching and the making of derogatory remarks which can offend and make someone feel uncomfortable as he did with Oliveras. The Respondent not only engaged in conversation with Oliveras, he grabbed her by the elbows and spun her around. She testified that she could not free herself from his grip. He then made pelvic thrusting motions behind her accompanied by derogatory remarks and he acknowledged that Oliveras told him she did not feel comfortable.

In this Court, Oliveras testified that she felt embarrassed and violated when she was touched by a man that she did not know. This unwelcome, unprofessional conduct by the Respondent while on duty, and in uniform cannot be tolerated. It is particularly disturbing that the Respondent took the stand and initially denied during direct examination that he asked Boitel out on a date, or grabbed Oliveras's arm or made pelvic motions behind Oliveras. If it was not for the rigorous cross-examination where the Respondent was confronted with previous statements he made during his Official Department Interview, the Respondent may never have confessed to his conduct on September 28, 2007. In addition, the Respondent did not seem to grasp or comprehend the serious nature of his lewd conduct. He testified before this Court, "If it were not for

her friend [Oliveras' co-worker, Vilar], who brought this to her knowledge, I don't think we would be going through this, to be honest with you."

In Disciplinary Case No. 74298/99, an 18-year lieutenant with no prior disciplinary record forfeits ten vacation days for inappropriate touching of a female officer. The Respondent performed an impromptu holster inspection in which he hooked his thumb into the waistband of the female officer's trousers and wondered aloud whether he could "pinch an inch." In Disciplinary Case No. 77395/01, an 18-year member with no prior disciplinary record forfeited 20 vacation days and was placed on one-year dismissal probation for sexually harassing four female officers. The Respondent followed one of the women on her way home, attempted to kiss her, asked to see her breasts and tried to touch them. He rubbed the women's backs, pulled on their bra straps and asked them to sleep with him because they could have a "good time." While one of the women was speaking on the telephone to her husband, the Respondent approached her and unhooked the clasp on her bra. The women stated that it was common knowledge in the precinct that the Respondent was "free" with his hands, and female officers avoided being alone with him.

In this instance, the Respondent was engaging in unwanted contact with a member of the public and the Respondent has a prior, disciplinary record. Accordingly, based on the Respondent's lack of initial candor before this Court during his direct examination, the fact that he failed to understand the gravity of his conduct, and his service record, I recommend that the Respondent forfeit 30 vacation days.

**APPROVED**

FEB 23 2009  
*Raymond W. Kelly*  
RAYMOND W. KELLY  
POLICE COMMISSIONER

Respectfully submitted,

*Claudia Daniels-DePeyster*  
Claudia Daniels-DePeyster  
Assistant Deputy Commissioner – Trials